

JOURNAL OF THE SENATE

EIGHTY-NINTH SESSION

SECOND DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, January 15, 2014

The Senate convened at 12:30 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Larry Cass, followed by the Pledge of Allegiance led by Senate page Jordan Jones.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the first day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

COMMUNICATIONS AND PETITIONS

January 13, 2014

The Honorable Matt Michels
President of the Senate
500 E. Capitol
Pierre, SD 57501

RE: Brian Zeeb/Interstate Commission for Adult Offender Supervision

Dear Mr. President and Members of the Senate:

Pursuant to the provisions of Chapter 24-16 and the Office of the Governor, Executive Order 2012-12, I have the honor to inform you that I have appointed Brian Zeeb to the South Dakota Interstate Commission for Adult Offender Supervision.

Enclosed is a copy of the following:

1. The statement of Financial Interest
2. Senate Confirmation Information
3. Oath
4. The November 15, 2013, letter of appointment

This appointment is effective immediately and will expire August 23, 2016.

Sincerely,
Marty J. Jackley
ATTORNEY GENERAL

The President referred the appointment to the Committee on Judiciary.

January 13, 2014

The Honorable Matt Michels
President of the Senate
500 E Capitol
Pierre, SD 57501

RE: Don Holloway/Board of Pardons and Paroles Attorney General Appointment

Dear Mr. President and Members of the Senate:

Pursuant to the provisions of Chapter 24-13 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have appointed Don Holloway to the South Dakota Board of Pardons and Paroles.

1 Enclosed is a copy of the following:

- 2 1. The statement of Financial Interest
- 3 2. Senate Confirmation Information
- 4 3. Oath
- 5 4. The November 14, 2013, letter of appointment

6 Sincerely,
7 Marty J. Jackley
8 ATTORNEY GENERAL

9 The President announced the referral of the appointment to the Committee on Judiciary

10 January 13, 2014

11 The Honorable Matt Michels
12 President of the Senate
13 500 E Capitol
14 Pierre, SD 57501

15 RE: Greg Erlandson/Board of Pardons and Paroles Attorney General Appointment

16 Dear Mr. President and Members of the Senate:

17 Pursuant to the provisions of Chapter 24-13 of the South Dakota Codified Laws and
18 subject to your consent, I have the honor to inform you that I have appointed Greg Erlandson
19 to the South Dakota Board of Pardons and Paroles.

20 Enclosed is a copy of the following:

- 21 1. The statement of Financial Interest
- 22 2. Senate Confirmation Information
- 23 3. Oath
- 24 4. The January 7, 2014, letter of appointment

25 This appointment is effective January 21, 2014, and will expire January 15, 2018.

26 Sincerely,
27 Marty J. Jackley
28 ATTORNEY GENERAL

29 The President announced the referral of the appointment to the Committee on Judiciary.

1 March 8, 2013

2 The Honorable Matt Michels
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear Mr. President and Members of the Senate:

7 Pursuant to the provisions of Chapter 24-13 of the South Dakota Codified Laws and
8 subject to your consent, I have the honor to inform you that I have appointed Mark R. Smith,
9 Hughes County, Pierre, South Dakota, to the Board of Pardons and Paroles.

10 This appointment is effective March 10, 2013, and shall continue until January 18, 2016.

11 Sincerely,
12 Dennis Daugaard
13 Governor

14 The President announced the referral of the appointment to the Committee on Judiciary.

15 January 3, 2014

16 The Honorable Matt Michels
17 President of the Senate
18 State Capitol
19 Pierre, SD 57501

20 Dear Mr. President and Members of the Senate:

21 Pursuant to the provisions of Section 1-45 of the South Dakota Codified Laws and subject
22 to your consent, I have the honor to inform you that I have reappointed Marilyn Hoyt, Beadle
23 County, Huron, South Dakota, to the South Dakota Board of Education.

24 This appointment is effective immediately and shall continue until December 31, 2017.

25 Sincerely,
26 Dennis Daugaard
27 Governor

28 The President announced the referral of the appointment to the Committee on Education.

1 January 3, 2014

2 The Honorable Matt Michels
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear Mr. President and Members of the Senate:

7 Pursuant to the provisions of Chapter 1-45 of the South Dakota Codified Laws and subject
8 to your consent, I have the honor to inform you that I have reappointed Glenna N. Fouberg,
9 Brown County, Aberdeen, South Dakota, to the South Dakota Board of Education.

10 This appointment is effective immediately and shall continue until December 31, 2017.

11 Sincerely,
12 Dennis Daugaard
13 Governor

14 The President announced the referral of the appointment to the Committee on Education.

15 June 26, 2013

16 The Honorable Matt Michels
17 President of the Senate
18 State Capitol
19 Pierre, SD 57501

20 Dear Mr. President and Members of the Senate:

21 Pursuant to the provisions of Chapter 13-49 of the South Dakota Codified Laws and
22 subject to your consent, I have the honor to inform you that I have appointed Joseph Scharz,
23 Minnehaha County, Humboldt, South Dakota, to the State Board of Regents.

24 This appointment is effective July 1, 2013, and shall continue until July 1, 2014.

25 Sincerely,
26 Dennis Daugaard
27 Governor

28 The President announced the referral of the appointment to the Committee on Education.

1 March 26, 2013

2 The Honorable Matt Michels
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear Mr. President and Members of the Senate:

7 Pursuant to the provisions of Section 42-7A-17 of the South Dakota Codified Laws and
8 subject to your consent, I have the honor to inform you that I have appointed James S. Towler,
9 Union County, Dakota Dunes, South Dakota, to the South Dakota Lottery Commission.

10 This appointment is effective April 5, 2013, and shall continue until January 1, 2016.

11 Sincerely,
12 Dennis Daugaard
13 Governor

14 The President announced the referral of the appointment to the Committee on Commerce
15 and Energy.

16 July 11, 2013

17 The Honorable Matt Michels
18 President of the Senate
19 State Capitol
20 Pierre, SD 57501

21 Dear Mr. President and Members of the Senate:

22 Pursuant to the provisions of Chapter 1-16H of the South Dakota Codified Laws and
23 subject to your consent, I have the honor to inform you that I have appointed Ronald Wheeler,
24 Lawrence County, Lead, South Dakota, to the South Dakota Science and Technology Authority.

25 This appointment is effective immediately and shall continue until April 9, 2014.

26 Sincerely,
27 Dennis Daugaard
28 Governor

29 The President announced the referral of the appointment to the Committee on Commerce
30 and Energy.

1 March 26, 2013

2 The Honorable Matt Michels
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear Mr. President and Members of the Senate:

7 Pursuant to the provisions of Chapter 13-49 of the South Dakota Codified Laws and
8 subject to your consent, I have the honor to inform you that I have appointed Bob L. Sutton,
9 Hughes County, Pierre, South Dakota, to the State Board of Regents.

10 This appointment is effective April 5, 2013, and shall continue until March 31, 2019.

11 Sincerely,
12 Dennis Daugaard
13 Governor

14 The President announced the referral of the appointment to the Committee on Education.

15 **REPORTS OF JOINT-SELECT COMMITTEES**

16 MR. PRESIDENT:

17 Your Joint-Select Committee appointed to make arrangements for legislative days
18 respectfully reports that we recommend the days of the Eighty-ninth Legislative Session be
19 January 14 through January 17, January 21 through January 24, January 28 through January 31,
20 February 4 through February 7, February 10 through February 13, February 18 through
21 February 21, February 24 through February 27, March 3 through March 6, March 10 through
22 March 14, and March 31.

23 Respectfully submitted,
24 Scott Munsterman
25 Jacqueline Sly
26 Peggy Gibson
27 House Committee

Respectfully submitted,
Corey Brown
Tim Rave
Jason Frerichs
Senate Committee

28 Also MR. PRESIDENT:

29 Your Joint-Select Committee appointed for the purpose of fixing the compensation of the
30 elective and appointive officers and employees of the House and Senate for the Eighty-ninth
31 Legislative Session, pursuant to SDCL 2-5-8, respectfully reports that a salary schedule for the
32 elective and appointive officers and employees has been developed and filed with the Director
33 of the Legislative Research Council and the State Auditor.

In regard to the system for payment of travel expenses to legislators we respectfully report that:

(1) A form listing each weekend during session will be delivered to legislators. Legislators will be asked to list their travel on that single sheet which would be signed and turned in at the close of session. Also, pursuant to statute, a voucher must also be signed by each legislator requesting travel reimbursement.

(2) Legislators driving their own car home for a weekend will receive mileage paid at state rates (37 cents per mile). Legislators not driving home will not be entitled to reimbursement unless they leased a vehicle or somehow incurred an expense, equivalent to 37 cents per mile, in such travel.

(3) Legislators flying commercially will receive the equivalent of flight expenses as long as it does not exceed 37 cents per mile.

(4) Legislators flying charter or in their own plane will be reimbursed for actual expenses as long as it does not exceed 37 cents per mile.

(5) A maximum of ten trips will be considered for the 2014 Legislative Session, including the trip for the final legislative day.

(6) Pursuant to constitutional provisions, legislators will be paid for their initial trip to Pierre and their final trip home at the rate of 5 cents per mile.

Respectfully submitted,
Brian Gosch
David Lust
Bernie Hunhoff
House Committee

Respectfully submitted,
Corey Brown
Dan Lederman
Jason Frerichs
Senate Committee

Also MR. PRESIDENT:

Your Joint-Select Committee appointed for the purpose of conferring with the Director of the Legislative Research Council in regard to making arrangements for the distribution of the official directory, House and Senate journals and bills, and other legislative printing for the two houses and the state offices with the full power to act respectfully reports that:

The Legislature orders 170 copies of the Senate and House bills and resolutions (each); and 100 copies of the Senate and House daily journals (each) for the Eighty-ninth Legislative Session.

The free distribution of sets of bills, resolutions, and daily journals shall be as follows:

Eight copies for the Governor's Office, thirteen copies for the Supreme Court, eleven copies for the Legislative Research Council, four copies for the State Library Depository, three copies for the Attorney General, two copies for the Bureau of Finance and Management, four

1 copies for the Secretary of State, two copies for the Department of Legislative Audit, one copy
2 for the Code Commission, one copy for the State Treasurer, one copy for the State Auditor, one
3 copy for the Commissioner of School and Public Lands, one copy for the Public Utilities
4 Commission, and press copies as needed. Accomplishment of this distribution may be satisfied,
5 in whole or in part, by obtaining electronic copies of these documents from the legislative Web
6 site.

7 State's Attorneys and County Auditors shall receive free copies of bills and journals if they
8 pay mailing charges at a rate of \$50 per set (bills or journals) for first-class mailing.

9 Distribution of bills and journals to state officials, boards, commissions, and institutions
10 will be made upon request in writing to the Legislative Documents Room at a charge of
11 \$170 per set of bills and \$100 per set of journals plus mailing charges, if applicable.

12 One copy of the official directory (red book) shall be distributed to each Senator and
13 Representative, four copies to the State Library, three copies to the Secretary of State and a
14 copy shall also be made available to state departments and the press upon request to the
15 Director of the Legislative Research Council. The public may obtain a copy for a fee of
16 \$7 payable to the Legislative Documents Room.

17 One free copy of the South Dakota Legislative Index shall be distributed to the Governor,
18 the Lieutenant Governor, the Attorney General and the Supreme Court; four free copies to the
19 State Library Depository; and one free copy to Senators and Representatives. Upon written
20 request to the Legislative Documents Room before January 31, 2014, all other state and private
21 entities may purchase the South Dakota Legislative Index at a cost of \$50 per copy.

22 The Chief Mailing Clerk shall upon written request furnish any individual, firm,
23 corporation, association, or other organization with a set of House and Senate bills for \$170 per
24 set and a set of journals for \$100 per set for the Eighty-ninth Legislative Session, plus mailing
25 charges, if applicable.

26 Legislators may have two copies of all bills and resolutions and two copies of the daily
27 journals distributed or mailed to constituents within the legislator's own district if constituents
28 or legislators pay mailing charges of \$50 per set for first-class mailing.

29 Registered lobbyists shall be entitled to one copy of the official directory upon payment
30 of the \$40 registration fee to the Secretary of State; and upon payment of an additional \$170 per
31 set of bills and \$100 per set of journals plus mailing charges, if applicable, to the Legislative
32 Documents Room, shall be entitled to one copy of all bills and resolutions or journals pursuant
33 to SDCL 2-12-3.

34 Bill status reports will be printed and sold to state agencies at cost and to registered
35 lobbyists for \$200 payable to the Legislative Documents Room which receipted funds shall be
36 used to pay the printing costs. If bill status is mailed, the cost is \$125 for first-class postage.

37 A free daily copy of the bill status report shall be distributed as follows:

Governor; Speaker of the House; Speaker Pro tempore of the House; House Majority Leader; House Minority Leader; House Lobby; Chief Clerk of the House; Lieutenant Governor; President Pro tempore of the Senate; Senate Majority Leader; Senate Minority Leader; Senate Lobby; Secretary of the Senate; Page Advisor; Attorney General; Bureau of Finance and Management; Secretary of State; Treasurer's Office; Auditor's Office; Office of School and Public Lands; and Legislative Research Council. Accomplishment of this distribution may be satisfied, in whole or in part, by obtaining electronic copies of these documents from the legislative Web site.

The Chief Mailing Clerk shall at the end of the session file a report with the Director of the Legislative Research Council of all money paid for the purchase of bills and journals and show proof of having deposited such money with the State Treasurer. Such funds shall be used to offset the costs of postage and printing of bills and journals.

Respectfully submitted,
Steven Westra
Kristin Conzet
Scott Parsley
House Committee

Respectfully submitted,
Dan Lederman
Ryan Maher
Billie Sutton
Senate Committee

Also MR. PRESIDENT:

Your Joint-Select Committee appointed relative to securing chaplains for the Eighty-ninth Legislative Session respectfully reports:

We have conferred with the Pierre/Ft. Pierre Ministerial Association and have arranged for ministers to participate on a part-time basis under the direction of Pastor Sarah Goldammer, Lutheran Memorial Church, as chief chaplain, to serve the Senate and House as chaplains throughout the Eighty-ninth session of the Legislature. The chaplains are as follows:

John Armstrong, Dan Bader, Josh Baumann, Don Block, Paul Bly, Larry Cass, Kristopher Cowles, John Fette, Sarah Goldammer, Michael Griffin, Mercy Hobbs, David Hussey, Fred MacDonald, Auggie Minzlaff, Sunshine Minzlaff, J. P. Mosley, Jr., Dodie Noordermeer, Brad Urbach, and David Zellmer.

Respectfully submitted,
Scott Craig
Steve Hickey
Dennis Feickert
House Committee

Respectfully submitted,
Larry Rhoden
Bill Van Gerpen
Larry Lucas
Senate Committee

Also MR. PRESIDENT:

Your Joint-Select Committee appointed to make arrangements for a Memorial Service for deceased former members of the South Dakota House of Representatives and Senate respectfully reports that they recommend that the House of Representatives and Senate recess

1 and convene in the House Chamber at 3:00 p.m. on January 23, 2014, and that a Joint Memorial
2 Resolution be introduced in their memory by their colleagues in the House of Representatives
3 and Senate.

4 A short program will follow the introduction of the Memorial Resolution. At the
5 conclusion of the Memorial Service, the Joint Session will be dissolved.

6 The Memorial Resolution shall be printed in the House and Senate Journals.

7 Respectfully submitted,
8 Hal Wick
9 Scott Craig
10 Steve Hickey
11 Dennis Feickert
12 House Committee

Respectfully submitted,
Mike Vehle
Phyllis Heineman
Jim Bradford
Senate Committee

13 **MESSAGES FROM THE HOUSE**

14 The reading of the messages from the House was waived.

15 MR. PRESIDENT:

16 I have the honor to inform your honorable body that the House has appointed Reps. Wink,
17 Cronin, and Bartling as a committee of three on the part of the House to meet with a like
18 committee on the part of the Senate to arrange for a Joint Session of the two houses to receive
19 the message of the Governor.

20 Also MR. PRESIDENT:

21 I have the honor to inform your honorable body that the House has appointed Reps. Wink,
22 Cronin, and Bartling as a committee of three on the part of the House to meet with a like
23 committee on the part of the Senate to notify the Governor that the Legislature is duly organized
24 and ready to meet in Joint Session to receive any communications he may desire to make.

25 Also MR. PRESIDENT:

26 I have the honor to inform your honorable body that the House has appointed Reps. Lust,
27 Cronin, and Bernie Hunhoff as a committee of three on the part of the House to meet with a like
28 committee on the part of the Senate to arrange for a Joint Session of the Senate and House of
29 Representatives to receive a message from the Chief Justice of the Supreme Court.

1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has appointed Reps. Gosch,
3 Lust, and Bernie Hunhoff as a committee of three on the part of the House to meet with a like
4 committee on the part of the Senate relative to the Joint Rules for the Eighty-ninth Legislative
5 Session.

6 Also MR. PRESIDENT:

7 I have the honor to inform your honorable body that the House has appointed Reps. Gosch,
8 Lust, and Bernie Hunhoff as a committee of three on the part of the House to meet with a like
9 committee on the part of the Senate for the purpose of setting the compensation schedule of the
10 elective and appointive officers and employees of the House and Senate for the Eighty-ninth
11 Legislative Session, pursuant to SDCL 2-5-8, with the full power to act and that such
12 compensation schedule be filed with the Director of the Legislative Research Council and the
13 State Auditor.

14 Also MR. PRESIDENT:

15 I have the honor to inform your honorable body that the House has appointed Reps. Craig,
16 Hickey, and Feickert as a committee of three on the part of the House to meet with a like
17 committee on the part of the Senate relative to securing chaplains for the Eighty-ninth
18 Legislative Session.

19 Also MR. PRESIDENT:

20 I have the honor to inform your honorable body that the House has appointed
21 Reps. Munsterman, Sly, and Gibson as a committee of three on the part of the House to meet
22 with a like committee on the part of the Senate to arrange for legislative days for the members,
23 officers, and employees of the Senate and House.

24 Also MR. PRESIDENT:

25 I have the honor to inform your honorable body that the House has appointed
26 Reps. Westra, Conzet, and Parsley as a committee of three on the part of the House to meet with
27 a like committee on the part of the Senate for the purpose of conferring with the Director of the
28 Legislative Research Council in regard to making arrangements for the distribution of the
29 official directory, House and Senate Journals, and bills and other legislative printing for the two
30 houses and the state offices with the full power to act.

1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has appointed Reps. Wick,
3 Craig, Hickey, and Feickert as a committee of four on the part of the House to meet with a
4 committee of three on the part of the Senate for the purpose of arranging for a memorial
5 recognition of deceased former members of the House and Senate.

6 Also MR. PRESIDENT:

7 I have the honor to inform your honorable body that the House has adopted the report of
8 the Joint-Select Committee for the purpose of arranging a Joint Session of the two houses to
9 receive the message of the Governor.

10 Also MR. PRESIDENT:

11 I have the honor to inform your honorable body that the House has adopted the report of
12 the Joint-Select Committee for the purpose of notifying the Governor that the Legislature is
13 duly organized and ready to meet in Joint Session to receive any communications he may desire
14 to make.

15 Also MR. PRESIDENT:

16 I have the honor to inform your honorable body that the House has adopted the report of
17 the Joint-Select Committee relative to arranging for a joint session to receive the State of the
18 Judiciary message from the Chief Justice of the Supreme Court.

19 Respectfully,
20 Arlene Kvislen, Chief Clerk

21 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

22 SB 6 Introduced by: Senators Soholt, Peters, and Tieszen and Representatives Stevens,
23 Conzet, Gibson, Rozum, and Soli at the request of the Interim Domestic Abuse Study
24 Committee

25 FOR AN ACT ENTITLED, An Act to establish the crime of committing certain acts of
26 domestic abuse in the presence of a minor child.

27 Was read the first time.

28 SB 21 Introduced by: The Committee on Judiciary at the request of the Office of the
29 Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the collection
2 and setting of 24/7 sobriety program fees and regarding the monitoring of ignition interlock
3 testing.

4 Was read the first time.

5 SB 22 Introduced by: The Committee on Judiciary at the request of the Office of the
6 Attorney General

7 FOR AN ACT ENTITLED, An Act to authorize the issuance of citations for certain
8 livestock inspection violations.

9 Was read the first time.

10 SB 23 Introduced by: The Committee on Judiciary at the request of the Office of the
11 Attorney General

12 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to deceptive trade
13 practices, including unordered property or services, lodging reservation and cancellation,
14 violation penalties, attorney's fees, entry rights for landlords and tenants, debit card theft, and
15 organized retail crime.

16 Was read the first time.

17 SB 25 Introduced by: The Committee on Judiciary at the request of the Office of the
18 Attorney General

19 FOR AN ACT ENTITLED, An Act to establish the procedure to forfeit personal property
20 in child pornography, human trafficking, child solicitation or exploitation cases, and to direct
21 money from the forfeitures.

22 Was read the first time.

23 SB 26 Introduced by: The Committee on Judiciary at the request of the Office of the
24 Attorney General

25 FOR AN ACT ENTITLED, An Act to establish certain electronic crime victim notification
26 procedures.

27 Was read the first time.

28 SB 37 Introduced by: The Committee on Appropriations at the request of the Department
29 of Education

1 FOR AN ACT ENTITLED, An Act to revise the state aid to general education formula.

2 Was read the first time and referred to the Committee on Appropriations.

3 SB 38 Introduced by: The Committee on Appropriations at the request of the Department
4 of Education

5 FOR AN ACT ENTITLED, An Act to revise the state aid to special education formula.

6 Was read the first time and referred to the Committee on Appropriations.

7 SB 39 Introduced by: The Committee on Transportation at the request of the Department
8 of Transportation

9 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation
10 of certain open containers of alcoholic beverages.

11 Was read the first time.

12 SB 40 Introduced by: The Committee on Retirement Laws at the request of the South
13 Dakota Retirement System

14 FOR AN ACT ENTITLED, An Act to allow a surviving spouse of a member of the South
15 Dakota Retirement System to elect a reduced benefit prior to age sixty-five under certain
16 circumstances.

17 Was read the first time and referred to the Committee on Retirement Laws.

18 SB 41 Introduced by: The Committee on Retirement Laws at the request of the South
19 Dakota Retirement System

20 FOR AN ACT ENTITLED, An Act to revise the definition of penitentiary correctional
21 staff for purposes of administering the South Dakota Retirement System.

22 Was read the first time and referred to the Committee on Retirement Laws.

23 SB 42 Introduced by: The Committee on Retirement Laws at the request of the South
24 Dakota Retirement System

25 FOR AN ACT ENTITLED, An Act to authorize certain former state cement plant
26 employees and surviving spouses to elect a lump sum trustee-to-trustee payment in lieu of
27 monthly benefit payments.

1 Was read the first time and referred to the Committee on Retirement Laws.

2 SB 43 Introduced by: The Committee on Retirement Laws at the request of the South
3 Dakota Retirement System

4 FOR AN ACT ENTITLED, An Act to revise the calculation of disability benefits and
5 certain benefits payable upon death of members of the South Dakota Retirement System.

6 Was read the first time and referred to the Committee on Retirement Laws.

7 SB 44 Introduced by: The Committee on Appropriations at the request of the Department
8 of Social Services

9 FOR AN ACT ENTITLED, An Act to create a provider revolving loan fund for skilled
10 nursing facilities in the Department of Social Services, to make an appropriation therefor, and
11 to declare an emergency.

12 Was read the first time and referred to the Committee on Health and Human Services.

13 SB 45 Introduced by: The Committee on Commerce and Energy at the request of the South
14 Dakota Real Estate Commission

15 FOR AN ACT ENTITLED, An Act to revise the Real Estate Commission's grounds for
16 disciplinary actions on home inspectors.

17 Was read the first time and referred to the Committee on Commerce and Energy.

18 SB 46 Introduced by: The Committee on Agriculture and Natural Resources at the request
19 of the Animal Industry Board

20 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding animal welfare
21 and to provide a felony penalty for cruelty to animals.

22 Was read the first time.

23 SB 47 Introduced by: The Committee on Commerce and Energy at the request of the
24 Department of Labor and Regulation

25 FOR AN ACT ENTITLED, An Act to establish new criteria for the certification, licensure,
26 and registration of real estate appraisers.

27 Was read the first time and referred to the Committee on Commerce and Energy.

1 SB 48 Introduced by: The Committee on Commerce and Energy at the request of the
2 Department of Labor and Regulation

3 FOR AN ACT ENTITLED, An Act to require appraisal management companies to
4 maintain a surety bond or irrevocable letter of credit.

5 Was read the first time and referred to the Committee on Commerce and Energy.

6 SB 49 Introduced by: The Committee on Commerce and Energy at the request of the
7 Department of Labor and Regulation

8 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding private
9 placement policies.

10 Was read the first time and referred to the Committee on Commerce and Energy.

11 SB 50 Introduced by: The Committee on Commerce and Energy at the request of the
12 Department of Labor and Regulation

13 FOR AN ACT ENTITLED, An Act to authorize rule-making authority to establish record-
14 keeping requirements for insurers and producers.

15 Was read the first time and referred to the Committee on Commerce and Energy.

16 SB 51 Introduced by: The Committee on State Affairs at the request of the Department of
17 Revenue

18 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation
19 of tobacco.

20 Was read the first time and referred to the Committee on State Affairs.

21 SB 52 Introduced by: The Committee on Commerce and Energy at the request of the
22 Department of Labor and Regulation

23 FOR AN ACT ENTITLED, An Act to authorize the informal settlement of insurance
24 examinations.

25 Was read the first time and referred to the Committee on Commerce and Energy.

26 SB 53 Introduced by: The Committee on Appropriations at the request of the Department
27 of Labor and Regulation

FOR AN ACT ENTITLED, An Act to make an appropriation to fund the New South Dakotans and Dakota Roots programs and to declare an emergency.

Was read the first time and referred to the Committee on Appropriations.

SB 54 Introduced by: The Committee on Transportation at the request of the Department of Revenue

FOR AN ACT ENTITLED, An Act to revise the definition of a boat dealer, used vehicle dealer, and dealer of mobile homes or manufactured homes, and to revise certain penalties for selling motor vehicles, snowmobiles, mobile homes, manufactured homes, or boats without a license.

Was read the first time.

SB 55 Introduced by: The Committee on Taxation at the request of the Department of Revenue

FOR AN ACT ENTITLED, An Act to repeal the contractor's excise tax on certain new or expanded power production facilities.

Was read the first time and referred to the Committee on Taxation.

SB 56 Introduced by: The Committee on Taxation at the request of the Department of Revenue

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding auditing standards used by the Department of Revenue.

Was read the first time and referred to the Committee on Taxation.

SB 57 Introduced by: The Committee on Taxation at the request of the Department of Revenue

FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the regulation of the trading stamp business.

Was read the first time and referred to the Committee on Taxation.

SB 58 Introduced by: The Committee on Transportation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to provide for permits to be issued for certain harvest
2 vehicles.

3 Was read the first time and referred to the Committee on Transportation.

4 SB 59 Introduced by: The Committee on Transportation at the request of the Department
5 of Revenue

6 FOR AN ACT ENTITLED, An Act to increase the penalty for the trafficking of vehicle
7 license plates and decals, to prohibit and provide a penalty for the unauthorized transfer of a
8 vehicle license plate or decal, and to impose a penalty for altering or forging certain vehicle
9 registration cards.

10 Was read the first time.

11 SB 60 Introduced by: The Committee on Transportation at the request of the Department
12 of Revenue

13 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the titling and
14 licensing of boats and motor vehicles and to establish certain penalties for violation of those
15 provisions.

16 Was read the first time.

17 SB 61 Introduced by: The Committee on Transportation at the request of the Department
18 of Revenue

19 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding organization,
20 first responder, and organ donor emblem speciality plates for motor vehicles.

21 Was read the first time and referred to the Committee on Transportation.

22 Sen. Bradford moved that the Senate do now adjourn, which motion prevailed and at
23 12:53 p.m. the Senate adjourned.

24 Jeannette Schipper, Secretary

25 **JOINT SESSION**

26 Pursuant to the report of the Joint-Select Committee, as found on page 12 of the Senate
27 Journal, the Senate convened with the House of Representatives in the House Chamber for the
28 purpose of receiving a message from the Chief Justice of the Supreme Court, David Gilbertson.
29 The President of the Senate, Matt Michels, presided.

1 The following prayer was delivered by Chaplain, Bishop David Zellmer, South Dakota
2 Synod of the ELCA, Sioux Falls, South Dakota:

3 O God of all Creation, in the words from Proverbs you tell us that you give wisdom and
4 "store up sound wisdom for the upright; they are a shield to those who walk blamelessly and
5 preserving the way of his faithful one..." Proverbs 2:6&7

6 On this day we remember in prayer those men and women who go in harms way on our
7 behalf, who keep us safe both day and night. We pray for their families in their waiting and ask
8 that those who serve might return home safely. We pray for the men and women who have been
9 set aside as Justices and Judges, that they might be blessed with Your abiding wisdom and
10 courage, so that justice and mercy might prevail for the people of South Dakota. We pray as
11 well for our Governor and Legislators and all those who hold elected or appointed office, bless
12 this legislative session that through their work what is best for all might be set forth.

13 In Your Holy Name we Pray. Amen.

14 The Secretary of the Senate, Jeannette Schipper, called the roll of the Senate and the
15 following members were present:

16 Begalka; Bradford; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman, Phyllis; Holien;
17 Hunhoff, Jean; Jensen; Jones, Chuck; Jones, Tom; Kirkeby; Krebs; Lederman; Lucas; Maher;
18 Monroe; Novstrup, Al; Omdahl; Otten, Ernie; Peters; Rampelberg; Rave; Rhoden; Soholt;
19 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White.

20 The Chief Clerk of the House of Representatives, Arlene Kvislen, called the roll of the
21 House and the following members were present:

22 Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden;
23 Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar, Don; Haggar,
24 Jenna; Hajek; Hawks; Hawley; Heinemann; Heinert; Hickey; Hoffman; Hunhoff, Bernie; Johns;
25 Kaiser; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson; Munsterman;
26 Nelson; Novstrup, David; Olson, Betty; Otten, Herman; Parsley; Peterson; Qualm; Rasmussen;
27 Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum;
28 Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer;
29 Speaker Gosch.

30 Sen. Rave moved that a committee of three on the part of the Senate and a committee of
31 five on the part of the House be appointed to escort the Honorable David Gilbertson, Chief
32 Justice of the state of South Dakota, to the rostrum.

33 Which motion prevailed and the President appointed as such committee Sens. Brown,
34 Rave, and Frerichs on the part of the Senate and Reps. Lust, Wink, Cronin, Bernie Hunhoff, and
35 Bartling on the part of the House.

36 The Sergeant at Arms announced the arrival of Chief Justice David Gilbertson, who was
37 escorted to the rostrum.

1 The Lieutenant Governor, Matt Michels, introduced the Honorable David Gilbertson, who
2 delivered the State of the Judiciary Address.

3 Sen. Rave moved that the Joint Session do now dissolve.

4 Which motion prevailed.

5 Pursuant to the Joint-Select Committee Report found on page 11 of the Senate Journal, the
6 following is Governor Dennis Daugaard's State of the State Address:

7 **STATE OF THE STATE 2014**
8 **JANUARY 14, 2014**
9 **PIERRE, SOUTH DAKOTA**
10 **GOVERNOR DENNIS DAUGAARD**

11 Thank you very much. It's good to have you back in Pierre.

12 Before I begin today, I'd like to recognize a few new legislators who are joining us this year.
13 At the Budget Address, I recognized Senator Blake Curd, Representative Dave Anderson, and
14 Representative Kris Larger. Today I'd also like to recognize Senator Chuck Jones from
15 Flandreau and also Senator Alan Solano from Rapid City. Would all five of you please stand
16 and be recognized. Welcome!

17 I can still remember how I felt on that first day, so welcome to all of you. I am told that
18 Governor Frank Farrar is also here. Governor Farrar would you please stand? Welcome
19 Governor! This is my fourth State of the State Address. Just over three years ago, in my
20 inaugural address, you might remember a favorite quote I included from President Calvin
21 Coolidge:

22 *Nothing in the world can take the place of Persistence. Talent will not; nothing is more*
23 *common than unsuccessful men with talent. Genius will not; unrewarded genius is almost a*
24 *proverb. Education will not; the world is full of educated derelicts. Persistence and*
25 *determination alone are omnipotent.*

26 I would never belittle the importance of education or knowledge; neither did President
27 Coolidge. But he identified the essential element to success - persistence and determination.
28 In other words - hard work.

29 South Dakotans believe in hard work. When we promote South Dakota as a good place to do
30 business, we promote the work ethic of our people. Those who do business in multiple states,
31 including South Dakota, will often remark to me that their South Dakota location is their most
32 productive, because South Dakotans know how to work.

33 In short, South Dakota works because South Dakota's people know how to work. We succeed
34 and excel because we work hard and stay true to our values.

We can be proud of the many ways in which South Dakota excels. During the past year, objective outsiders have recognized our state for excellence. Last April, the United States Chamber of Commerce recognized South Dakota as having the nation's "Best Business Climate." Last June, the U. S. Department of Commerce released their study of Regional Price Parity and identified South Dakota as having the lowest cost of living in the nation. Then, in July, CNBC named South Dakota "America's Top State for Business."

South Dakota's unemployment rate fell again last month to 3.6 percent - the second-lowest in the nation, even as Nevada and Rhode Island still struggle with 9 percent unemployment. Some metropolitan areas in Arizona, California, Illinois, and New Jersey have unemployment rates of 12 percent or worse.

Only 15 states have recovered all of the jobs those states lost during the recession. South Dakota is one of them. Today South Dakota has over 10,000 more jobs than we did before the recession. South Dakota, in fact, is 2.5 percent above our pre-recession peak, while the nation remains about 1 percent below pre-recession levels.

South Dakota's average personal income growth continues to be among the highest in the nation. In the third quarter of last year, personal income growth compared to the same quarter in 2012 was the highest in the nation.

We have reached another important milestone as well, as our per capita income now exceeds the national average. Numbers available for 2012 indicate that the average South Dakotan earns about 3.8 percent more than the average American.

One consequence of our strengthening economy is that 2013 saw a 1.3 percent decrease in the number of people on Medicaid and a 2.4 percent decrease in those enrolled for SNAP or food stamps. This is the first year in recent memory that enrollments in these programs have dropped.

Of course not all rankings are economic, and we can be proud of our success in many areas. South Dakota continues to be among the nation's best in immunizations for kindergarteners and for the percentage of the population who goes out and gets a flu shot.

Our young people understand the value of education. Our high school graduates go on to college or tech school at one of the highest rates in the nation. Once those students graduate, our low student loan default rates show that those who had to borrow are able to pay back the loans they took out.

Although we must always be mindful of long-term funding needs, South Dakota's 8,000 miles of paved state highways rank a 4.4 out of 5 for quality, and our state bridges rank 91 out of 100 on a 100-point scale. This year, we are going to be completing construction of South Dakota's portion of the Heartland Expressway, which we began in 1997. We have reached an agreement with the city of Sioux Falls to jump start progress on the northern part of Highway 100, which will eventually connect 1-29 to 1-90 traversing the southern and eastern edges of Sioux Falls.

1 We also continue to protect our environment. Ninety-eight point two percent of our state's
2 community water systems meet or exceed EPA's National Primary Drinking Water standards.
3 It's the same with air quality. We are one of only seven states in the nation that meet all air
4 quality standards.

5 We can be thankful that South Dakota is no longer suffering from drought. A year ago at this
6 time 100 percent of the state was in drought condition and 97 percent of that was "severe
7 drought." Today, only 4 percent of the state is classified only as "abnormally dry," not even
8 drought level, and none of the state is even classified otherwise.

9 We've been rated among the top five states in the nation for our high credit scores as one of the
10 best states in which to retire and for volunteerism. It should be no surprise that an analysis last
11 year of photos posted on the Internet showed South Dakotans smile more than people in any
12 other state.

13 Of course, I'm very proud of the decisions we have made about our state finances. We have
14 structurally balanced our budget without using any financial gimmicks. We have conservatively
15 estimated revenue and enjoyed modest year-end surpluses. We are one of only a very few states
16 in the nation to have a public pension that is more than 100 percent funded. Last year, we
17 refinanced our tobacco bonds resulting in a \$43.9 million present value increase to the
18 Education Enhancement Trust Fund. We have done it all without raising taxes. Achievements
19 like these and our low debt load led to South Dakota being named the "Best Run State in
20 America" in 2012.

21 Some of these achievements were caused by good decisions that you made and other governors
22 made over the years. But the real credit should go to people of South Dakota who tell us what
23 kind of laws they want or don't, what to regulate, and what not to regulate. They tell us every
24 year what kind of government they want.

25 Whenever we face a challenge, South Dakotans roll up our sleeves and work together to find
26 a solution.

27 Two years ago, I used my State of the State Address to speak to you about workforce. I
28 announced the South Dakota Workforce Initiatives, or "South Dakota WINS," a twenty-point
29 plan to get more South Dakotans trained and ready to work in a rapidly growing and changing
30 South Dakota economy.

31 South Dakota WINS included four categories of effort. I'd like to briefly update you on some
32 of the progress we've made in each of these areas over the past couple years and share new
33 proposals to continue our progress.

34 The first area of South Dakota WINS is "preparing our youth." We need to prepare our young
35 people to live and work in the 21st Century, and we need to give them the information they
36 need to make wise decisions about career choices and academic programs. Students need to
37 know that if they enter a high-need field, they will find a job in South Dakota, and they will
38 make good money in that job.

1 Over the last two years, the state has continued to strengthen SDMyLife, an online portal for
2 students and parents to research career and academic options. We have piloted new programs
3 to remediation, both in high school and at the universities, to help more students succeed in
4 post-secondary programs. We have organized and promoted career camps in engineering,
5 information technology, healthcare, and the skilled trades to expose students to these high-need
6 career fields.

7 Over the past year, I have focused my attention on the need to offer high quality CTE, Career
8 and Technical Education, in our K-12 schools. CTE is at the intersection of education and
9 economic development. While many of our schools offer good CTE programs, these expensive
10 programs can be difficult to offer and maintain especially for our smaller school districts.

11 I can't overstate the importance of these programs. CTE programs are very closely aligned with
12 our state's workforce needs from welding and machining, to healthcare and information
13 technology, to engineering and biosciences. These programs give students experiences so they
14 understand these aren't "dirty jobs," but opportunities to work with the latest technology
15 hands-on. Even higher education opportunities are available right here in South Dakota at our
16 universities and technical institutes.

17 After session ended last year, I asked staff from my office and from the Department of
18 Education to reach out to those who are engaged in CTE programs. Over the spring, summer,
19 and fall, they visited all four technical institutes, as well as high school CTE programs. They
20 held a series of meetings to listen to over 40 high school administrators and educators - large
21 school and small schools. They learned about innovation already occurring in our state.

22 Fortunately, working together to provide CTE is not a new idea for South Dakota's schools.
23 Northeast Technical High School has provided CTE programs for Watertown area school
24 districts for decades. In northwestern South Dakota, a consortium of eight districts uses a fleet
25 of portable CTE labs in semi-truck trailers to share programs and equipment. In Sioux Falls,
26 the new CTE Academy is providing cutting-edge programs to students from all districts in that
27 area.

28 We need even more innovation like this, and today, I am announcing that I will use at least
29 \$5 million in Future Funds this year to support a series of Governor's Grants for CTE. These
30 grants will help schools join together to strengthen their current CTE offerings.

31 The Department of Education issued a Request for Information to schools last fall, and we
32 received proposals from 26 districts totaling \$20 million in requests. We are working now to
33 narrow down the requests we received and to sharpen the applications. We can't do it all this
34 year, but I believe these grants are a big step toward creating new opportunities for our young
35 people to learn, work, and live right here in South Dakota.

36 This year we will also help finance more high school students to take dual credit courses. More
37 and more high school CTE programs are partnering with our technical institutes to provide
38 courses that award both high school credit and post-secondary credit. Our state universities have
39 also partnered for years with high schools to make dual credit opportunities available. Schools
40 can't typically pay for university or technical institute credit. In some cases, the cost of the
41 higher education credits makes these opportunities cost prohibitive for a student's family.

1 Right now, college or tech school credit can be obtained for some courses provided by the high
2 school, if the high school course and instructor are approved by the college or tech school. For
3 example, in college dual credit cases, students who pass their approved high school course can
4 pay \$40 per credit hour and get college credit in addition to their high school credit. However,
5 if that high school student takes a course directly from the college, such as Composition online
6 for dual credit, that student pays \$300 per credit hour for that distance class.

7 The FY15 budget I proposed last December proposes funds to help make these opportunities
8 more affordable. Using a combination of state funds and discounts from the Regents and the
9 Technical Institutes, we propose to buy down the cost of entry-level university and technical
10 institute courses. That way students can take these dual credit courses from the universities and
11 tech schools directly at the low \$40 per credit hour.

12 Dual credit opportunities are a win-win-win-win. Students who start college or tech schools
13 with some credits already earned are more likely to complete on time and at less cost.
14 Universities and technical institutes get the opportunity to make themselves known to
15 prospective students and to help prepare them for success when they graduate. High schools
16 gain flexibility to offer more opportunities to students at no cost to the district, and the state gets
17 more young people who are ready to succeed, live, and work here in South Dakota.

18 Offering training for skilled jobs is the second major area of South Dakota WINS, and over the
19 past two years, we have made major strides in this area. We created a new welding and
20 manufacturing program at Mitchell Tech. As of this fall, 23 of the 24 slots are full. We also
21 expanded the welding program at Mike Durfee State Prison, so that more inmates can learn this
22 skill and prepare for a productive life after prison. The tech schools have created innovative
23 distance-based machining and welding courses that combine online and hands-on elements.
24 These distance-based programs have already served students in seven different South Dakota
25 communities.

26 Our technical institutes strive to teach using cutting-edge, up-to-date equipment, but that can
27 be very expensive. Last month, I asked the four technical institutes to let me know their
28 highest-need equipment upgrades. Earlier this month, I awarded \$3.8 million in Future Fund
29 grants to the technical institutes to fund many of the needed upgrades in our workforce priority
30 areas. From hemodynamic monitors used in cardiovascular procedures, to computer
31 numerically controlled press brakes and robotics trainers used in manufacturing, to telecaster
32 production switches used in satellite communications, just to name a few. These are just a few
33 of the funded upgrades which will offer significant improvements to our technical institute
34 programs.

35 In addition, today I am announcing I will be awarding the technical institutes another
36 \$1.5 million. That's \$500,000 a year for the next three years for scholarships in 20 high-need
37 program areas. These scholarships of up to \$5,000 for two year programs will be awarded to
38 students who agree to stay in South Dakota and work in a high-need field for three years.

39 Another important workforce need in our state is rural health care. That is the third area of
40 South Dakota WINS. Between 2010 and 2020, South Dakota will need over 8,000 new
41 healthcare workers. This is going to be a challenge because our elderly population is expected
42 to double by 2025.

1 Most of our state's health professionals are concentrated in the more populated areas. Rural
2 areas have been struggling to recruit and retain providers. Fifty- three of the state's sixty-six
3 counties are federally designated as health professional shortage areas either partially or
4 completely.

5 Health care providers who were raised in South Dakota, educated in South Dakota, and
6 on-the-job trained in South Dakota are more likely to stay in South Dakota. We have to work
7 even harder to make that happen for rural areas. That's where we've been focusing our efforts.

8 We've already made important strides.

9 Two years ago, we expanded the rural healthcare facilities recruitment program for fields such
10 as registered nurses and physical therapists. As a result of this expansion, we have 120 health
11 care professionals that were successfully recruited to 49 rural communities, including
12 communities like Faulkton, Scotland, Mission, and Timber Lake.

13 We also needed more capacity in our educational programs. In FY13, we increased the class
14 size at the med school by 4 students. In my budget this year, I am proposing that we add still
15 another 11 students per class. That means in five years we will have 60 more med students
16 being trained in our state than we did before the expansion began. In the future, we must work
17 to add residencies to keep these additional med school graduates during their residency training
18 right here in South Dakota.

19 We have also increased the capacity of the physician assistant program at USD from 20 to
20 25 students and reserved 20 of those spots for South Dakotans. For the first time, we are now
21 paying preceptors who provide practice experiences for physician assistants' graduates. This has
22 increased the number of willing preceptors in South Dakota. In my budget proposal for FY15,
23 I am encouraging you to provide the same financial incentive for nurse practitioner preceptors.
24 Again, if we can keep these graduates doing their on-the-job training after school in South
25 Dakota, it's more likely we can keep them working in South Dakota.

26 To encourage practice in rural areas, the FY13 budget included funding to establish the Frontier
27 and Rural Medicine, or FARM program, to give third-year medical students a nine-month
28 experience in rural communities. These programs are important because we find that students
29 who have good rural experiences are more likely to then practice in rural areas.

30 The fourth and final area of South Dakota WINS is our effort to attract more workers to South
31 Dakota. I mentioned in my Budget Address last month that the New South Dakotans program
32 designed to recruit workers from other states has worked more slowly than we had hoped.

33 Conversely, we have seen great success with the Dakota Roots program, which focuses
34 recruiting efforts on inviting former South Dakotans to come back home. Since it began, in
35 2006, more than 3,000 people have returned to South Dakota to accept employment thanks to
36 Dakota Roots. A small investment of marketing dollars two years ago has led to an 89 percent
37 increase in annual Dakota Roots registrations and a 66 percent increase in annual job
38 placements in that two-year period.

1 My budget proposal reverts \$4 million of the \$5 million that was initially appropriated for New
2 South Dakotans, but it also proposes to appropriate \$500,000 in one-time funds to continue to
3 strengthen the successful Dakota Roots program and to wind down the New South Dakotans
4 program.

5 The issue of workforce continues to be a major challenge for our state. Our low unemployment
6 rate is a sign of our economic strength, but it also means it's difficult for employers to add more
7 jobs even if they have the business to justify it.

8 Over the next several weeks, I will be going on the road to carry this message to several
9 communities around the state. I will address chamber of commerce groups, visit with editorial
10 boards, and meet with employers about their workforce needs. Then after session ends, in the
11 spring and summer, we will organize larger workforce summits around the state. I'll invite you
12 so that business and community leaders can come together to review our current efforts, learn
13 about demographic and workforce trends, and so we can learn from them and discuss what we
14 need to do next.

15 Two years ago, South Dakota WINS initiated some important efforts to address this challenge
16 by strengthening K-12 and tech ed, addressing healthcare shortages, trying to bring more
17 workers to our state, and other efforts. Some of these initiatives have been immediately
18 successful, while a few haven't worked out as we had hoped. We need to recognize that the
19 challenge of workforce will not be overcome easily, and it won't be overcome in one year. I
20 hope we will continue to focus on this issue during this legislative session and during the years
21 to come.

22 On another topic, nearly two years ago, our state embarked upon a review of the state's criminal
23 justice system. The Chief Justice, legislative leadership, and I formed a work group to study our
24 prison population and corrections system using a data-driven approach. We charged the work
25 group with three clear goals: improve public safety; hold offenders accountable; and save
26 money.

27 The work group recommended and the legislature passed, last session, an extensive reform of
28 our system - the Public Safety Improvement Act. These reforms included measures to
29 strengthen offender accountability, offender supervision, ensure sustainability of the reforms,
30 and focus prison space on violent and career criminals.

31 I am pleased to report today that over the last 10 months the Executive and Judicial Branches
32 have worked tirelessly to ensure diligent, deliberate, and effective implementation of the Act.
33 Several parts became effective last July, others became operative last fall, and some took effect
34 just two weeks ago, on January 1st.

35 Development teams are still vigorously working on a few remaining issues, but regardless of
36 the difficulty that comes with transformational change, the Executive and Judicial Branches
37 have worked very hard to achieve the goals we set. It's too early to declare victory, but the
38 statutorily created Oversight Council is receiving very positive reports on the implementation
39 so far. Let me give you an example.

1 Holding offenders more accountable requires a focus on those most likely to reoffend. One of
2 the policies that took effect last July was "earned discharge credits." This policy allows
3 compliant parolees to reduce the duration of their parole - 30 days of reduction every time they
4 complete 30 days of perfect compliance. The program has been shown through empirical
5 evidence to reduce recidivism, lower parole violations, reduce caseloads, and allow parole
6 officers to focus on more high risk offenders.

7 From July through November, over 91 percent of eligible parolees have been compliant
8 following all the rules and paying their fines and restitution. Over 342,000 days of parole credit
9 has already been earned. That is over 937 cumulative years and equates to about 5 fewer
10 parolees supervised by each parole officer.

11 Experts tell us it will take 2 or 3 years to complete implementation and 3 to 5 years to see all
12 the results of our combined efforts. However, early data suggests the reforms you passed will
13 succeed. We will continue to closely monitor implementation of the law to ensure that the three
14 goals of increased public safety, offender accountability, and reduced spending are met.

15 The other major piece of legislation that passed last session was Senate Bill 235, which created
16 the Building South Dakota Fund. This important legislation allows the state to partner with local
17 economic development efforts, and it recognizes the crucial role that housing, infrastructure,
18 and career and tech ed all play in growing our state's economy. I have already discussed some
19 efforts I have made in some of these areas. Building South Dakota ensures we will continue to
20 focus on these issues into the future.

21 Over \$3.4 million in grants have already been awarded since Building South Dakota took effect
22 last year, and the legislation is also providing extra funding for schools to support English
23 language learners.

24 In the Budget Address, I discussed my proposal to change the funding mechanism for Building
25 South Dakota. Again, by pre-funding Building South Dakota with \$30 million of one-time
26 dollars, we can free ongoing dollars for other priorities. I know many of you wondered what
27 this proposal would mean for the future of Building South Dakota. The bill that I introduce will
28 ensure this program is funded for years to come.

29 Thanks to your commitment over the past three years to conservative budgeting, South Dakota
30 has enjoyed a budget surplus each of the last two years. So long as we stay true to those
31 principles, we should expect that to continue more often than not.

32 Under current law, budget surpluses are transferred into budget reserves as part of our rainy day
33 funds at the end of the fiscal year. I am proposing to change that in certain circumstances.
34 Under my proposal, the first priority for surplus funds will be to keep our rainy day funds at
35 10 percent of general fund appropriations for the year just ended. Once that is met, the second
36 priority will be to automatically pre-fund Building South Dakota, so that the program is always
37 funded at least one year in advance.

38 It is important to remember that the \$30 million pre-funding I have already proposed secures
39 the Building South Dakota Fund for more than a year into the future. In addition, I believe we
40 all agree this program is a very prudent place to invest one-time dollars mid-session. If we are

1 conscientious about investing one-time dollars in the years when we have them, the automatic
2 funding I am proposing will never be necessary. My proposal will guarantee that Building
3 South Dakota is the first in line for year-end surplus funds when our rainy day funds are
4 adequate.

5 Building South Dakota created some important new tools to aid our economic development
6 efforts. Thanks to our favorable business climate, we have already seen many businesses
7 expand and add jobs over the past three years.

8 For example, in the manufacturing sector, two Texas-based companies, Permian Tank &
9 Manufacturing and Pipeline Plastics LLC, expanded to Belle Fourche to take advantage of the
10 opportunities in the oil and gas fields, especially in North Dakota. Together, they will bring
11 105 jobs to the area. A third Texas company, WL Plastics, began production in their new Rapid
12 City location last August, adding 43 jobs. In 2012, A.G. North American Operations, Inc., a
13 German-based company that provides brazed aluminum air-cooled heat exchangers, added a
14 new addition to its Mitchell facility to create space for 215 jobs. Last year, Madmen Energy,
15 a Quebec-based manufacturer of wind towers, purchased a 150,000 square foot building in
16 Brandon. They are expanding the facility to over 200,000 square feet and will employ up to
17 250 people this year.

18 We have also seen growth in the financial and professional business services sector. Over the
19 past three years, T.F. Bank, Capital One, and TONE have all expanded in South Dakota. These
20 expansions alone account for about 750 new jobs in South Dakota.

21 We have seized opportunities in agriculture, our state's No. 1 industry. Glanbia Nutritionals, a
22 flax-seed processor, will cut the ribbon on their new Sioux Falls plant in April. Pulse
23 Processors, a processor of edible beans, broke ground last October in Harrold. In 2012, we
24 announced that Bel Brands USA would build a new cheese processing plant in Brookings.
25 Construction is on-schedule, and it should open later this year.

26 To ensure a strong milk supply for Bel Brands and our state's seven other milk-processing
27 facilities, we initiated a plan to expand our dairy herd. Through our County Site Analysis
28 Program, state officials have worked hand-in-hand with local county commissions and
29 landowners to identify the best locations for new livestock operations and ag development. As
30 a result, South Dakota dairies have added or are in the process of adding 8,000 more cows to
31 their existing herds. Several counties have issued building permits for new dairies that could
32 expand our state's dairy herd by still another 15,000 cows. By embracing local control and
33 working together with counties to site these facilities, we're capitalizing on the clear economic
34 advantages of livestock agriculture.

35 Whether in manufacturing, finance, agriculture or elsewhere, this strong economic growth is
36 due to the hard work of the employers and employees of many companies and the wise policy
37 decisions you have made to preserve a strong business climate. It is also due to the efforts of
38 local economic developers and our staff at the Governor's Office of Economic Development.

39 Before I move on, I'd like to speak for a moment about the concerns that have arisen
40 surrounding alleged wrongdoing by a former employee of the economic development office.

I called for an investigation into this matter last spring, and I released the Attorney General's findings to the Legislature and to the public last fall.

Good stewardship of public money is very important to me, and I know that every legislator and every South Dakotan shares this concern. In November, I sent every legislator a memo explaining that, in addition to the Attorney General's investigation, I have ordered three separate, independent audits or reviews of the economic development office in response to this situation.

One external auditor is reviewing every disbursement made under several economic development programs reaching back as far as 2009. This review will verify there was a signed agreement or approved application and supporting documentation for every disbursement, each payment amount was correct, and that a check or electronic payment was made to the intended recipient.

The second review is being conducted by your Department of Legislative Audit, which is independent of the Executive Branch and reports to you, the State Legislature. Legislative Audit is performing a financial and compliance audit of the fund financial statements for all government funds in the economic development office, again reaching back to 2009. The Attorney General has received a court order authorizing him to release records he obtained during his investigation to your Auditor General to aid in this audit, which will supplement those audits that Legislative Audit already performs of some economic development programs.

Still another third independent auditor is conducting an examination of internal control procedures. This review will look for weaknesses in policies and procedures and will make recommendations to ensure the economic development programs have adequate internal control procedures in place to safeguard public funds.

In addition, members of my team are working closely with the State Auditor's Office to improve our internal practices regarding travel reimbursements. They will be proposing administrative rules that will require additional justification for travel reimbursement submitted after 60 days. We are also implementing new protocols for submission of travel expenses at the agency level, and the State Auditor is considering processes to ensure reimbursements are not duplicated.

All of the reviews and audits I have discussed are expected to be completed by the end of January and will be shared with you, the Legislature, and the general public. When the results are known, I will work closely with legislators to decide how the state should respond to the results and to determine if further reviews are warranted.

This is a serious matter and it deserves serious attention from state officials. It is important to be thorough and comprehensive, even if doing so takes more time. My goals moving forward are three-fold: to continue to cooperate in any way in the federal investigation, to recover misappropriated state funds, if possible, and to use these extensive audits and reviews to find ways to improve our processes.

Another topic I know many of you have heard about is the Common Core State Standards adopted by South Dakota in 2010. The Common Core standards are the product of a state-led effort by governors and chief education officers to provide a clear and rigorous set of academic

standards for mathematics and language arts. The standards were not written by the federal government, are not required by the federal government, and South Dakota receives no federal funds that were contingent upon adopting the Common Core standards.

We need to have content standards. We need standards that are rigorous. We need our students to learn English and math, and we also need them to learn how to think independently and solve problems in real-world situations. These were the goals of those who wrote, evaluated, and adopted the Common Core standards, and I support those goals.

For many people, however, the Common Core has come to mean much more than that. It encapsulates our opposition to federal interference in education, our concern about the privacy of individual student data, and our strong belief in local control of our schools.

I share those concerns as well, and I hope we will all work together this year to protect our students without undermining the important goals of rigorous and competitive content standards.

I spoke earlier about our good finances. Although South Dakota's budgetary picture is good, there is one area of concern. It was an area of concern when I delivered the budget proposal last month. It was a concern a year ago, and it was concerning two years ago. I'm talking about bank franchise taxes.

In 2011, when we struggled to balance the budget, we had a repayment liability hanging over our heads. It was a bank franchise tax problem. In my budget address in 2012, I acknowledged the possibility we might not receive any revenue from bank franchise taxes. Last month, I told you that BFM had adjusted bank franchise taxes downward for FY14 and that this revenue source is significantly lower than historic levels. It's a bank franchise tax problem.

Why is this revenue source so unpredictable and so volatile? Let's understand how the tax works. First, understand how the bank franchise tax is levied.

For community banks, banks that do their business primarily in South Dakota, the tax is very straightforward and stable. Community banks do virtually all of their business in South Dakota. Thus the tax is calculated on virtually all their business.

For large interstate and international banks, which do business in many places both inside and outside South Dakota, the bank franchise tax is volatile and problematic. Those banks need to identify the share of their business activity which should be apportioned to South Dakota and then calculate the tax on that share.

South Dakota apportionment law uses three factors: property, payroll, and receipts. The first factor is property, and it's a straightforward calculation. How much property does an interstate bank have in South Dakota vs everywhere? If a bank has \$5 million of property in South Dakota and a \$100 million of property everywhere, its got 5 percent of its property in South Dakota. That's a factor. The second factor is payroll. That's also very straightforward. If a bank has

1 \$10 million of annual payroll paid to South Dakotans and a \$100 million paid everywhere, its
2 got 10 percent of its payroll in South Dakota.

3 The third factor though is the receipts factor. That's where we have this problem. Our
4 apportionment law was last amended in 1977 before Congress approved interstate banking,
5 before personal computers, before the Internet, and before mobile computing. South Dakota's
6 three factors have been unchanged since 1977.

7 Think about 1977. In 1977, if I wanted a loan, I went into the bank, signed papers, and I paid
8 my interest payments to that same bank. It was very easy to determine the location of the
9 receipt. Then came interstate banking and the Internet. Now I might go online in Colorado and
10 connect to a computer in Nevada to apply for a credit card. The computer might have some
11 algorithms by which it screens me automatically, but if my credit history is marginal, my file
12 might get examined by a real human person in South Dakota. If I get the card, I might send my
13 payments to a payment center in New York. If I have a problem with the card, I might call a call
14 center with customer support operators, and they might be in Ohio. With all the locations
15 involved in these credit card matters, who is entitled to claim the receipt? This is the problem
16 confronting our interstate banks and our Department of Revenue. It makes calculating the tax
17 a nightmare and auditing virtually impossible.

18 We need to modernize our statute, but we also should maintain our tax revenues. I'll say that
19 again -maintain, not increase, our tax revenues.

20 South Dakota is a very good place for interstate banks. In a recent study by RSM McGladrey,
21 banks in South Dakota rank #2 in net income, #3 in total assets, #3 for return on assets, #3 in
22 net loans, and #3 in total deposits. Several interstate banks have located their home charters in
23 South Dakota because of our stable regulatory environment.

24 Even though more banks are locating in South Dakota, our bank franchise tax revenue has
25 actually fallen in recent years. Here is how our revenue has dropped.

26 Looking back twenty years, if you look to the left of the black line, that's actual bank franchise
27 tax collections that the state has received through 2013. If you look to the right of the black line,
28 the first two lines are what we have budgeted in FY14 and for FY15. Today, I believe if we do
29 nothing in this area, the far right bar is what we will actually collect at the state level. We are
30 going to have to adjust our expenditure levels down from the budget that I proposed.

31 I will be bringing forward legislation to address this issue in a way that does not - I repeat - does
32 not impact our South Dakota community banks. It will impact nine very large interstate banks
33 doing business in South Dakota, but it will not, it will not increase the total tax paid by these
34 nine banks collectively over historical averages. Let me say that one more time. It will impact
35 nine large interstate banks, but it will not increase the collective tax that these nine banks have
36 paid historically over average years.

37 This legislative session I hope to have your support to address this problem, not to raise taxes,
38 but to preserve what modest taxes we have. If you agree, we will have more stability, more

1 transparency, and more simple tax administration. South Dakota will remain one of the lowest
2 tax environments in the country for all banks.

3 Last summer, one of our very large daily newspapers ran a series of articles describing how
4 citizens had been seriously hurt by an insurance carrier doing business in our state. After
5 reading the articles, I asked the Secretary of Labor and Regulation to investigate how we
6 regulate the insurance industry and how this could have happened. A few weeks later, she
7 issued a report that found the Division of Insurance lacks the statutory authority needed to
8 properly protect consumers.

9 Our Division of Insurance cannot fine carriers unless the carriers themselves agree to the
10 penalty. The Division cannot inform affected consumers if their insurance carrier has agreed
11 to remedial action. We can't even tell the consumer who has complained. Most states have
12 adopted some version of a national model unfair claims act setting forth the basic requirements
13 carriers need to follow when rejecting claims. South Dakota has no such law despite proposals
14 to do so in 1994, 1997, 2006, 2007, and 2008.

15 I think you all know how much I believe in South Dakota's common sense regulatory
16 environment. I don't like over regulation. There is, however, a vital role for government to play
17 in protecting consumers. The Division of Insurance will be bringing four bills to address the
18 deficiencies in our current regulatory landscape. This is the year to get these bills passed, and
19 I hope you will join me in supporting them.

20 Beyond protecting consumers, a government that serves the public in an open, efficient, and
21 accessible way is important to us all. These principles of openness, efficiency, and accessibility
22 underpin the Better Government initiative that I began three years ago.

23 Unless there's a clear, compelling reason, government information should be open and
24 accessible. Since I took office, the state has placed considerably more information online. Every
25 economic development grant is now listed online. Restaurant inspections are now online. The
26 Department of Environment and Natural Resources has put all oil, gas, and water drilling
27 information online. We have released the invitation lists for the Governor's Hunt and other
28 economic development events.

29 A couple of months ago, we took another important step, unveiling a new state website,
30 rules.sd.gov, where the public can track proposed administrative rules and submit their
31 feedback. The site is based upon the LRC website for tracking legislation. It makes it much
32 easier for the public to be involved in the rulemaking process.

33 We are also moving to mobile platforms. Game, Fish, and Parks has an excellent outdoors app
34 for hunters and fishers. The Department of Tourism has an app for visitors who come to our
35 state, and now travelers can use the Department of Transportation's new 511 app to check road
36 conditions.

37 Better government is also about finding places to roll back government, and I will be proposing
38 another package of repealer bills this year. It's the nature of government to add to the body of

1 laws. When running for office you've probably been asked, "If elected, what will you do?" We
2 sometimes took that to mean, "What law will we pass?" We sometimes measure productivity
3 by the number of bills we pass. But when it comes to laws, more isn't always better.

4 We shouldn't place unnecessary hurdles before our citizens or entrepreneurs. Things shouldn't
5 be overly complicated. Thanks to you, we've already gone a long way in removing unnecessary
6 red tape in state government.

7 During the 2012 and 2013 Legislative Sessions, we repealed 378 unneeded rules and
8 919 obsolete sections of law, totaling more than 148,000 words. This year, the Executive
9 Branch will be introducing more than 10 bills to repeal even more unnecessary rules and laws
10 that are just taking up space or causing confusion.

11 Let me share a concrete instance where these Better Government principles have made a real
12 difference. In the summer of 2012, we had a problem at some of our driver licensing stations.
13 Many citizens were experiencing wait times of more than two hours. Some had to wait more
14 than three hours.

15 That's unacceptable. In July of 2012, I announced a comprehensive plan to make the driver
16 licensing system more efficient and convenient. We extended our hours of operation, instituted
17 aggressive hiring and training programs, and developed a new scheduling system so citizens
18 could call ahead or use the Internet and make appointments. We installed self-service kiosks
19 at a number of exam stations. We also created a driver license superstation in Sioux Falls to
20 handle substantially higher volumes. Last year, I worked with you to pass legislation
21 authorizing online driver license renewals.

22 The steps we have taken have made a real difference. Before we made these changes, only
23 1 customer out of 10 was served in 10 minutes. By last summer, 4 out of 10 customers were
24 served within 10 minutes. In the last few months, we have served 8 out of 10 customers within
25 10 minutes of walking in the door.

26 Driver licensing is not the most exciting sexy issue, but we have seen real improvement in this
27 area because of the changes we made and because of the hardworking employees at the exam
28 stations. I want citizens to be able to interact with government, all government, in a way that
29 is convenient and efficient. I'm proud of the progress we've made in this area.

30 In South Dakota, we enjoy a high quality of life, in part because of great outdoor spaces. People
31 travel from around the world to enjoy them with us. We have worked hard the past three years
32 to be good stewards of these important resources. In 2012, I began the Black Hills Forest
33 Initiative to address the serious mountain pine beetle epidemic threatening western South
34 Dakota. The Legislature appropriated \$6.2 million to support this work and together we have
35 made tremendous progress.

36 Our cost-share program has provided direct assistance to more than 3,800 private landowners.
37 Our crews have surveyed 189,000 acres. That's almost 300 square miles of forestland. And
38 using progressive forestry techniques, we have treated 417,000 infested trees. Our aggressive

1 action to improve the health of the Black Hills forest earned an "Innovations Award" from the
2 Council of State Governments. We know there is more to do, but we can all be proud of the
3 progress we have made.

4 Even as we seek to protect our natural resources, we look forward to an exciting future. Last
5 session, you passed, and I signed a bill to create Good Earth State Park, our first new state park
6 in 40 years. Since its dedication in July, 12,000 visitors have experienced its scenic vistas and
7 walked its beautiful trails. Just last month, I convened a summit in Huron to seek ideas for
8 confronting the recent decline in pheasant numbers. Just as we acted to "beat the beetle,"
9 together we can identify and implement creative solutions to secure South Dakota's position as
10 the world's best pheasant hunting destination.

11 Even as we enjoy South Dakota's great outdoors, our climate is sometimes challenging, and we
12 need shelter from the weather. I'd like to talk for a moment about the Governor's House
13 program. As you know, this program builds affordable homes using inmate labor at Mike
14 Durfee State Prison in Springfield. The inmates gain valuable skills that help earn them jobs
15 when they leave prison and many South Dakotans across the state gain an opportunity to own
16 their home.

17 Over the past year, I asked the Department of Corrections and the Housing Development
18 Authority to explore the options to make the Governor's House more energy efficient.

19 Their first step was to build a prototype which met the Passive House standard. The Passive
20 House standard is a rigorous energy efficiency standard that requires heavy insulation, an
21 airtight envelope around the house, highly efficient windows, highly effective heating and
22 cooling systems, and an energy recovery air exchanger. Structures meeting the Passive House
23 standard have very low utility bills, and the homes retain enough heat to provide survivability
24 even in extreme cold weather without power.

25 The demonstration house was built in only a few months applying techniques that the builders
26 had learned only that year. In spite of these limitations, they met the Passive House standard,
27 and the house was put on display at the State Fair to educate fairgoers about new cutting-edge
28 building technologies.

29 Building every Governor's House to Passive House standard would make the house too
30 expensive for the target purchasers, but we have redesigned the Governor's House to apply
31 many Passive House principles such as better insulation and windows, an airtight envelope, and
32 an energy recovery air exchanger. These houses will now meet the Energy Star standard, which
33 makes them eligible for federally insured mortgages available only to energy efficient homes.
34 We have also ensured that the increased cost of the upgrades is offset by the decreased costs
35 homeowners see in their utility bills.

36 In the past few weeks, the news has covered the potential sale of the former DM&E railroad
37 line by the Canadian Pacific Railway. This rail line hauls more than 80 million bushels of grain,
38 13,000 cars of clay, and hundreds of thousands of tons of cement and other material each year.

I became involved in this issue in December of 2012, when the Canadian Pacific announced its intention to sell the line, just four short years after purchasing it with promises to invest more than \$400 million in improvements. I had two concerns. First, I wanted to be certain any potential buyer would continue to operate the entire line. Second, I wanted to determine whether Canadian Pacific had fulfilled its promises to invest in line upgrades.

I believe our efforts over the past year have been a success. Last month, the federal Surface Transportation Board granted the state's petition to obtain information we need from the Canadian Pacific to verify that the upgrades have indeed been made. We were supported in that petition by the U. S. Secretary of Transportation and the U. S. Secretary of Agriculture, as well as by our congressional delegation.

Canadian Pacific has now announced its intention to sell the line to Genesee & Wyoming, the nation's largest short-line operator. The CEO of Genesee & Wyoming came to Pierre last week to meet with me. I am optimistic they will operate the line in a way that benefits our state, as they have with similar short lines in other parts of the country.

Another important piece of legislation that we passed a year ago dealt with organ donation. We created a new online donor registry to make it easier for South Dakotans to register as an organ, eye, or tissue donor. That registry is already beginning to serve its purpose, and South Dakotans have proven again their generosity and concern for others. In 2013, we had more than doubled the number of new registered donors than we had in 2012 and more than triple the number we had in 2011. I encourage every legislator and every South Dakotan to register as a donor. Those waiting for transplants are our friends and our neighbors. They are literally in this room today. We can give no better gift than the gift of life.

I was encouraged to propose this legislation by my senior advisor, Deb Bowman. Deb would not be with us today if she had not received a kidney transplant more than a decade ago. Deb is planning to retire at the end of this legislative session after twenty-two years with state government. She has been a friend and an advisor to me, as well as to Governors Mickelson, Janklow, and Rounds. I know Deb has also worked closely with many of you in the Legislature. We all know how passionate and compassionate she can be. Please join me in thanking Deb for her years of public service.

Every one of us is here today because of the support of those who love us - our families and friends. I know I wouldn't be standing here today without my wife, Linda.

Linda has worked tirelessly over the past three years as our state's first lady. In addition to hosting thousands of people in summer tours at the Governor's Mansion, she has taken on several important initiatives that focus on our state's children.

In my first State of the State Address, I spoke about the issue of infant mortality, and Linda has also worked hard on this issue. She chaired the infant mortality task force in 2011 and has also spoken around the state to promote safe sleep practices and to raise money for the Cribs for Kids program, which has already distributed more than 3,000 cribs to families, child care programs, foster care providers, and domestic abuse shelters.

1 This is a tough issue, but state and private health care partners are in it for the long haul. In
2 2012, South Dakota had the lowest number of Sudden Infant Death Syndrome deaths we've ever
3 had, but the overall infant mortality rate actually went up. Preliminary numbers for 2013
4 indicate that the rate has dropped, but we understand we need to continue to work on this
5 important issue.

6 Shortly after I took office, Linda also began traveling the state to promote reading in our
7 elementary schools. So far, she has visited the third, fourth, and fifth graders in 242 grade
8 schools - over half of the elementary schools in our state.

9 As part of the FosterOne campaign, this past summer and fall, Linda traveled across the state
10 to talk with more than 500 people about the importance of foster care and the positive impact
11 foster parenting has on children who need our support. Linda has asked that people learn more
12 about foster care, and her efforts are paying off. In just the last six months, the number of
13 people interested in becoming foster parents has doubled. More than one-third of those people
14 have already taken the next step toward becoming a foster family.

15 Please do me a big favor, and thank our first lady for her efforts.

16 Just days before Christmas, I joined soldiers and family members in Harrisburg to send off the
17 National Guard's 1742nd Transportation Company. Holiday or not, 162 soldiers answered the
18 call to duty, leaving homes and families for a year-long tour in Afghanistan.

19 Since the 9/11 terrorist attacks, the South Dakota National Guard has deployed more than 7,200
20 soldiers and airmen overseas. I am very happy to report that, according to the Adjutant General,
21 we believe the 1742nd may be the last South Dakota National Guard unit called up to deploy
22 in support of the wars in Iraq and Afghanistan.

23 These brave men and women represent the finest that our state has to offer. They have served
24 and sacrificed much in defense of our state and nation.

25 Our returning heroes are also creating a new generation of veterans. Since South Dakota gained
26 statehood in 1889, our state has provided a home for veterans in Hot Springs. I read the initial
27 State of the State by Governor Mellette and he talked about that home. As I reported to you last
28 month, our plan to build the new Michael J. Fitzmaurice Veterans Home is on track and under
29 budget. Since December, contractors have been busy moving earth and blasting rock.
30 Underground utilities are being installed and one old building is being demolished. The new
31 home, which is scheduled to open late next year, will provide a place for our aging veterans for
32 decades to come.

33 Of course, the veterans who live in Hot Springs are just a small portion of the 75,000 veterans
34 living in South Dakota. They range in age from World War II veterans to those just returning
35 from Afghanistan. This year, the South Dakota Department of Veterans Affairs is launching
36 "Operation Reach All Veterans," a plan to meet every veteran in South Dakota and to offer
37 assistance with federal, state, and local benefits. The Department will host more than 130 open
38 houses, including at least one in every single county to reach out to veterans. Later today, I will

1 sign a proclamation declaring today "Operation Reach All Veterans Day" in South Dakota to
2 kick off this effort. Please join me in a round of applause for the service of our veterans and
3 active military personnel.

4 As I close today, I'd like to return to the topic of workforce. Last year, I convened the
5 Employment Works Task Force to focus on employment opportunities for a very specific group
6 of South Dakotans - our citizens with disabilities.

7 Too often, employers with job openings overlook people with disabilities. According to a 2011
8 estimate, only 41 percent of working age individuals with a disability were employed in South
9 Dakota - less than half the rate of those without a disability.

10 I can't pretend that I understand all the obstacles that confront a person with disabilities, but I
11 do feel a special appreciation for the disabled worker and for the employers who hire them.
12 Both my parents were born deaf, and I witnessed the challenges they faced as they job-hunted.
13 My father was a farmer, but our small farm wasn't big enough to support our family and cover
14 the farm mortgage, so Dad always had another job off the farm.

15 I believe that in this world people with disabilities often develop higher levels of determination
16 and accomplishment. Like my parents, they work harder than most. They have to. Good
17 employers know that the most valuable worker is the one who works hard, is loyal, is
18 honorable, and gives an honest day's work for an honest day's pay, whether that worker is
19 disabled or not. These employers know that hiring people with disabilities is good business.
20 They know that adversity builds character, and people with character are good employees.

21 For too long, some have seen employment of people with disabilities as a favor done with
22 sympathy. But I agree with the Employment Works Task Force - that needs to end in South
23 Dakota. We need to connect employers with employees who have disabilities because it makes
24 good business sense for the employer, and we need to start today.

25 We can begin by making the state of South Dakota an employer that sets the example for others.
26 There are already many examples in which state agencies and service providers work together
27 to provide employment opportunities for those with disabilities. The Bureau of Human
28 Resources and the Department of Human Services are working together to increase those
29 opportunities in the state work force.

30 In the past year, the Division of Vocational Rehabilitation alone assisted over 900 people with
31 disabilities to reach their employment goals. I support the task force's report to make the
32 Department of Human Services a single point of contact to educate employers, provide
33 technical assistance, and connect employers with qualified individuals with disabilities.

34 The best thing we can provide for every South Dakotan is the opportunity to enjoy the rewards
35 that come from work. I'm not talking about financial rewards. They are important, of course,
36 but I am talking about the sense of self-worth that we all gain from accomplishment gained
37 through personal effort and hard work.

1 South Dakota works in so many ways because of our values. Through blizzards, droughts,
2 tornadoes, fires, and floods, we always come together to overcome adversity.

3 As Laura Ingalls Wilder recalled her father's words in "The Long Winter" of 1881, "It's got to
4 quit sometime and we don't. It can't lick us. We won't give up."

5 South Dakotans don't give up, and we saw that proven to us, again, last fall. The early winter
6 storm hit western South Dakota at the worst time for our ranchers. They lost tens of thousands
7 of sheep and cattle and saw decades of work wiped out in just a few days.

8 But as a friend from Union Center said to me yesterday, the next rancher to demand a
9 government handout will be the first one. Ranchers worked hard, braved the elements, and did
10 what they could to save their livestock. Neighbors came together to help respond to the
11 devastation. State and local governments helped clear away carcasses. As of last week, the
12 Rancher Relief Fund has raised more than \$4 million to help those who were hurt to get back
13 on their feet. \$4 million is a lot of money, but in comparison to the value of lost livestock, it's
14 relatively small. Still, what's important is what it says about South Dakotans - that we care
15 about each other and do what we can to help when we can.

16 That's what we do in South Dakota. We pull together when times get tough. We work hard, take
17 care of ourselves, and help our neighbors. As South Dakota celebrates 125 years of statehood
18 this year, we can be proud that we are strong because we have not forgotten those values.

19 What is the state of our state today? The state of South Dakota is strong. I know the best is yet
20 to come. Let's all work hard this year.

21 Pursuant to the Joint-Select Committee Report found on page 12 of the Senate Journal, the
22 following is Chief Justice David Gilbertson's State of the Judiciary Message:

23 **STATE OF THE JUDICIARY MESSAGE**
24 **JANUARY 2014**

25 **DAVID GILBERTSON**
26 **CHIEF JUSTICE**

27 Governor Dugaard, Lieutenant Governor Michels, members of the Legislature,
28 Constitutional Officers, my fellow Justices, Judges, Unified Judicial System (UJS) employees
29 and all citizens of the State of South Dakota.

30 This marks the 12th year I have been privileged to come before you to present the State
31 of the Judiciary. In reviewing past messages, I noticed I discussed problems facing the UJS and
32 suggested options to solve them. This year, however, I am delighted to present a message to
33 you which focuses on programs undertaken to remedy the problems. At least one nears
34 completion. Others are just getting started. As Churchill said: "It is not the beginning of the end,

1 but the end of the beginning." All show when the three branches of government partner together
2 to address a problem, progress toward resolving that problem happens. A retired judge friend
3 of mine was fond of saying we are all in life's rowboat. If we row together, the boat moves
4 forward. However, if we row at our own pace and not in sync with the others, no matter how
5 hard we row, the boat goes in circles or goes nowhere.

6 In life we have a lot of options. Options broaden our opportunities. However, options do
7 not amount to anything without some type of decision and action. If we arrive at the end of our
8 term in office or life with nothing accomplished the options are still there, just being options.

9 Alternative sentencing, Veterans Courts, the rural attorney recruitment program along with
10 the Odyssey software upgrade, now possess statutory authorization. However, the legislation
11 passed last year is only a map to a goal, not the goal itself. The goal will be achieved only by
12 successful implementation of those statutes. That is our challenge.

13 **ALTERNATIVE SENTENCING**

14 Over the years I have discussed the subject of alternative sentencing more than any other
15 subject. This is because of its importance. In 2013, we turned the corner with the passage of
16 Senate Bill 70, the Criminal Justice Initiative. Overwhelming legislative and public support,
17 together with adequate funding, got the process off and running. Since passage, the UJS has
18 moved forward with its obligations under the bill and has adopted rules of implementation.

19 On July 1, 2013 Senate Bill 70 went into effect and we started to look at potential sites to
20 expand the drug court and alcohol court programs. It takes about two years to select a city, gain
21 local community and public official support, and train staff. We are also looking to expand
22 existing programs in Sioux Falls and the Black Hills.

23 In rural areas that lack counseling and other professional services, we are piloting the HOPE
24 Program, which comes from Hawaii. This program aims to reduce probation violations by drug
25 offenders and others at high risk of recidivism. Pilot programs are planned for the Selby and
26 Sioux Falls areas.

27 These programs are not "get out of jail free" cards. The focus is changed from imprisoning
28 non-violent felons to giving each felon with addictions the personal responsibility to be in
29 charge of his or her destiny. The felon is literally walking around with the key to the
30 penitentiary in his or her pocket. That felon decides by his or her actions whether the key gets
31 used. As the Governor declared last year, we as a state need to not only be tough on crime, we
32 need to be smart on crime and tough on criminal justice spending. Senate Bill 70 puts this state
33 on a path that espouses our traditional conservative principles of personal responsibility by the
34 perpetrator, and limited government and fiscal restraint by the state.

35 **VETERANS COURTS**

36 Another important component of the Criminal Justice Initiative is the use of the Veterans Court
37 concept. People who are involved in drug and alcohol courts have pled guilty to a felony and

1 are under a suspended sentence to the penitentiary. Although the data is incomplete, it indicates
2 veterans who come into our legal system often stand accused of misdemeanors, rather than
3 felonies. In cases where the judge, prosecutor and defense attorney deem it appropriate, the
4 veteran may be directly diverted to a rehabilitation program with the Veterans Administration
5 with the option that the misdemeanor charge will be dismissed if the veteran successfully
6 completes the program. This is a significant advantage to the veteran because he or she will
7 not have a criminal conviction if the program is successfully completed. Employers would
8 rather hire a person without a criminal conviction than a person with one, even if the person is
9 rehabilitated. We are moving forward with pilot projects in Sioux Falls, Watertown and Hot
10 Springs.

11 **JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI)**

12 The Annie E. Casey Foundation created the Juvenile Detention Alternatives Initiative (JDAI)
13 to work within the existing juvenile system to reduce juvenile detention, improve public safety
14 and save money. In many respects, JDAI mirrors what this Legislature did with adult
15 corrections by passing Senate Bill 70.

16 In 2010 the Governor's Council of Juvenile Services initiated JDAI in Minnehaha County and
17 Pennington County. The results have been impressive. The use of a Risk Assessment
18 Instrument by JDAI coordinators in Minnehaha County has reduced the average daily
19 population in secured detention from 41.28 in 2009 to 10.59 in 2012. This saved much of the
20 daily costs of detention for Minnehaha County and made discussion of the need for a larger and
21 more expensive facility unnecessary.

22 In Pennington County the result was the same. The average daily population in secure
23 detention decreased from 23.47 in 2009 to 9.19 in 2012. An additional benefit to the
24 Department of Corrections during this time period was the reduction of 42 post-adjudication
25 youth commitments ordered by the juvenile courts of this state.

26 Given this success, the Unified Judicial System is working to make the benefits of this program
27 statewide by achieving similar reductions in all areas of the state.

28 **RURAL ATTORNEYS**

29 If a law was passed evicting the attorneys from South Dakota's 48 most rural counties, universal
30 outrage would follow. If a law was likewise passed forbidding new attorneys from locating in
31 these 48 counties, there would be more justifiable outrage. The reaction would be, in large part,
32 from the result-no access to legal services in these counties. Yet prior to the passage of House
33 Bill 1096 time and circumstances were well on their way to yielding the same result without
34 the necessity of such laws, guards, or barbed wire. I do not want to be the Chief Justice who,
35 on my watch, is charged with permanently turning out the lights in 48 courthouses because they
36 are abandoned for lack of attorneys.

37 President John F. Kennedy said, "Things do not happen. Things are made to happen." That is
38 what occurred last year with the passage of House Bill 1096, the South Dakota rural attorney

1 initiative. This bill would not have passed without the tireless leadership of Senator Mike
2 Vehle. More impressive than his leadership on this issue is Senator Vehle's lack of connection
3 to the legal profession and his residence in Davison County, a county that does not stand to
4 benefit from the program. As Samuel Johnson said, "The true measure of a man is how he
5 treats someone who can do him absolutely no good."

6 The rural attorney initiative allows the State of South Dakota to take a giant step forward to
7 stem fifty years of decline in the ability of our citizens in rural areas to have reasonable access
8 to legal services. I have observed that South Dakota is becoming a state with islands of justice
9 provided in the larger cities and a sea of justice denied in rural areas. House Bill 1096 will
10 hopefully reverse this trend. This law will help provide our citizens with access to an attorney
11 and will work to ensure that our rural county governments, school boards, cities and towns have
12 access to legal services in those underserved areas.

13 The South Dakota Association of County Commissioners is aware of the benefits of the rural
14 attorney initiative and the association's responsibilities, should a county seek to participate. Its
15 initial response is enthusiastic. I have also met with the administration of the University of
16 South Dakota's School of Law and spoken directly with many law students about this
17 opportunity to receive assistance should they opt to set up a law practice in a rural area.

18 South Dakota is the first state in the nation to undertake a progressive response to overcome this
19 problem. Perhaps the reaction outside of South Dakota is as strong an indication of the
20 initiative's merit and creativity as is the reaction within South Dakota. It has drawn positive
21 national interest because every state, with the exception of one or two, has rural areas in the
22 same situation. Your legislation was the topic of front page articles in the New York Times and
23 the National Law Journal. CBS radio also covered the issue on its national news broadcast.

24 We plan for orderly growth of our state by zoning. We place special protection where needed
25 such as "drug-free" zones around schools. "No parking" zones protect access to fire hydrants
26 for firemen. However, no one wants to see the growth of "lawyer-free" zones through benign
27 neglect. House Bill 1096 will go a long way toward avoiding the growth of "lawyer-free" zones
28 in South Dakota.

29 PROBATION

30 Overlooked during the debates of the past year on Senate Bill 70 and the costs of penitentiary
31 incarceration are the quiet, yet impressive, results of the UJS probation program. There is no
32 question that the number of inmates in the penitentiary has been increasing. At that same time
33 the number of individuals placed on felony probation by our Circuit Judges has also increased.

34 The numbers for the past four years provide an interesting picture. Compare the number of
35 people on probation who were sent to the penitentiary for a serious violation of probation with
36 those who either successfully completed or remained on probation:

1	FELONS ON PROBATION	% SENT TO THE PENITENTIARY
2	FY 2010 4824	7.0%
3	FY 2011 5130	5.8%
4	FY 2012 5307	5.2%
5	FY 2013 5892	4.4%

6 The number of people sent to the penitentiary for probation violations dropped from 388 in FY
7 2010 to 260 for FY 2013. The number of individuals under felony supervision increased by
8 1,000. Thus, while the number on probation significantly increased, we were able to reduce
9 the number sent to the penitentiary for violations by one-third. The cost of penitentiary
10 incarceration is \$62.50 per day. Given the cost of probation is about \$3.00 per day our
11 probation program provides a financial bargain and a program that works.

12 **INTERACTIVE TELEVISION**

13 Not long after I became Chief Justice in 2001, I saw a demonstration of what generically could
14 be called a "two-way" television system. Having burned up literally weeks of my yearly circuit
15 judge time in "windshield time" and battling the all too frequent blizzards of northeast South
16 Dakota, I decided to start a pilot project to determine the utility of such a system in our
17 courthouses.

18 The pilot project proved an immediate success and allowed access between judges, attorneys
19 and their clients, and law enforcement. A five minute bond hearing, with the use of this system,
20 cut down hundreds of miles in travel time preceding and following such a short, but necessary,
21 hearing. Access for emergency matters needing the attention of a judge was also vastly
22 improved.

23 We moved forward and installed television units in about six counties per year. Along the way
24 we discovered the advantages of larger counties having a unit in a county jail and another unit
25 in their courthouse. This system eliminated travel time, expense and security risks between the
26 two buildings. By 2010 approximately half of our courthouses enjoyed the benefits of this
27 system.

28 With the budget cuts of a couple of years ago we were forced to end the expansion of the
29 program, although it continued to be highly successful where it existed. I am pleased to report
30 that with improvements in technology, we can now purchase a smaller unit which will do the
31 job for around \$3,200 per unit as compared to the \$15,000 purchase price for an original unit.
32 This will allow us to move forward with the installation of systems in 11 additional counties.
33 Deuel, Miner, Sanborn, Corson, Dewey, Ziebach, Campbell, Edmunds, McPherson, Mellette,
34 and Lyman counties will now be connected and their citizens can enjoy the advantages and
35 financial tax savings of this system. Upon completion of this expansion nearly every courthouse
36 in the state will be connected to this system. Such a blizzard-proof system is preferable to the
37 hands-on "thrill" of sliding into the ditch, which I experienced more than once in my circuit
38 judge days.

ODYSSEY

The Odyssey program, a paperless filing system in the circuit and magistrate courts, is well on its way to completion and success. The UJS has now converted every judicial circuit from a paper filing system to the paperless Odyssey program. As we move forward, we anticipate a day when electronic filing is a reality and court records can be viewed online. We are already experimenting with it in the 7th Circuit. The UJS has worked for years to assure the program's success. In future years, I look forward to standing before you with the good news the program is fully implemented.

Once full implementation is achieved, the Supreme Court's records will be converted to a paperless format. While Odyssey deals with circuit and magistrate courts, the same format will be needed at the Supreme Court level to assure the same high level service to the bar and the public.

THE SUPREME COURT LAW LIBRARY

One of my enjoyable duties as Chief Justice is to visit with students of various ages and explain to them how the Supreme Court works. When talking to a group of third graders from Madison several years ago, one observed, "Your job doesn't sound like much fun. What do you do for fun in your job?"

I now have an answer. We are on a hunt to discover the original beauty of the Supreme Court's Law Library. The Law Library is open to the public and is probably the only remaining portion of this gorgeous Capitol Building which has not been restored to its original beauty. The reason was simple: we needed shelving for the ever-increasing amount of law books we received. Now, with the advent of computerized legal research, the need for physical books is reduced and we can consider decreasing the amount of shelf space in the law library.

For years we had heard rumors of a long-lost mural hidden behind the book shelves. After a little snooping on my part, and with the aid of some hand tools, I removed shelving flush with the library wall and found original stenciling from 1911. We then brought in an expert painter who worked on the original Capitol restoration decades ago. To our surprise, when he removed some paint, he found a word on the wall. It was not a legal term. A check in Kingsbury's History of Dakota Territory found it was the name of a territorial judge. Every four feet, the expert painter removed paint and found the name of another judge stenciled in large letters on the wall. The names of nine territorial and early state judges have been found. We believe more are concealed behind the bookshelves.

We have a picture of how the library looked the day it was opened in 1911 and are working with the Bureau of Administration and the Capitol Restoration Commission on various options for restoration. Not all is what we suspected it to be however. We found names, stenciling and other early memorabilia, but discovered the rumored long-lost mural never existed. I invite you to stop by the Law Library on the second floor of the Capitol to see the hidden treasures for yourself.

EARLY COURTHOUSE POSTCARDS

Another project I would put in my personal "fun" category comes through a gift from the Hon. William J. Srstka who for 20 years searched for picture postcards of courthouses in South Dakota. When he retired in 2013, Judge Srstka donated his collection to the Supreme Court. The collection is complete and has at least one courthouse picture from every county that has a courthouse. While we have postcards of current courthouses, we also have postcards of thirty-five courthouses which at one time served the public, but no longer stand. The collection dates from about 1900 to the 1950s. The postcards are framed and mounted outside the doors into the Supreme Court's courtroom. This allows the public to see the pictorial history of their local county courthouse. I invite you to stop by and see what your county courthouse looked like.

JUSTICE JOHN K. KONENKAMP

This year will mark the 20th and final year of Justice Konenkamp's distinguished service to the citizens of South Dakota as a South Dakota Supreme Court Justice as he reaches the mandatory retirement age of 70. I came on the Court a few months after him and have had the privilege of working with him throughout that time.

I have never met a more dedicated public servant who has spent countless hours undertaking his judicial duties. There is no area of the Court which has not benefitted from his efforts. Legal scholars are well aware of his well-written and thoroughly researched opinions which cover the entire range of legal subjects.

In 2005, Justice Konenkamp became concerned some South Dakota citizens were not being allowed to equally participate in our legal system. He convinced the Supreme Court to create the Equal Justice Commission which he co-chaired with Judge Pat Lee of the Oglala Sioux Tribal Court. After holding hearings on every reservation in the State and elsewhere throughout South Dakota, the Commission wrote a detailed report. All recommendations which fell within the jurisdiction of the Supreme Court were enacted and implemented within the following year. An example of what was accomplished is the requirement the South Dakota bar exam test on Indian Law. At the time it was initiated, South Dakota was only the second state in the nation to do so. We continue that policy to assure the public new lawyers admitted to the South Dakota Bar possess a working knowledge of Indian Law.

Justice Konenkamp was also the leading force behind the Odyssey project which, as I have reported to you, will bring our court records and filing into the 21st century and allow better access by the bar and the public.

My father once said it is humbling to think that the world could have gotten along quite nicely without us if we had never been born. He said it was the few, the very few, who have risen to the point where the world would have been a poorer place without them. Justice John Konenkamp is one of those very few.

JUDGE MILDRED RAMYNKE

Leaders come and go. Few leave a lasting difference after they depart the scene. Judge Mildred Ramynke, one of those who did make a monumental and permanent contribution, passed away this year. It is unusual to call a person who was five feet tall a "giant" but she stands as a "giant" in the South Dakota legal profession.

Judge Ramynke's list of accomplishments is impressive by any standard, but even more so when one considers all were accomplished as a first for a woman in our state's legal profession. When she graduated from the University of South Dakota School of Law in 1939 as one of only two women in her class, she was one of the few female attorneys in the state.

She interrupted a legal career during World War II to serve her country. Instead of supportive tasks many women were relegated to, she was a pilot of such skill she trained male bomber pilots for combat missions.

After resuming her legal career, Judge Ramynke became the first woman to serve as a District County Judge, a Circuit Judge, a Presiding Circuit Judge and sit, by designation, with the South Dakota Supreme Court. She held these offices with a dignity and fairness which was a hallmark for anyone who aspires to become a judge. She treated the town drunk with the same courtesy and fairness as a senior member of the Bar.

Today 50% of the enrollment at our law school is female. There are 664 female members of the South Dakota State Bar. That is one-third of the membership of the state bar. Thirteen wear the robe of a judge and one wears the robe of a justice. All owe a significant debt to this woman from Peever, South Dakota who paved the way.

JUDICIAL ELECTIONS

2014 is an election year. This year a majority of the South Dakota Supreme Court justices will seek retention and every circuit judge position is up for election. Judicial elections are different than the partisan political elections held for the offices of the executive and legislative branches. At the Supreme Court level, the South Dakota Constitution calls for a justice to run on his or her record. A justice is literally voted up or down by the voters. At the Circuit Court level, a judge or judicial candidate runs in a non-partisan election. This compromise was implemented when the State was still in its infancy. It allows the election of judges by the people, but keeps partisan politics out of judicial elections. Justice should not be rationed on the basis of partisan politics any more than on the basis of race, religion, national origin or other arbitrary classification.

In order to ensure election rules are followed by judicial candidates, South Dakota is only one of two states which requires all judicial candidates, be they incumbents or challengers, to attend a school on how to legally campaign for judicial office. South Dakota also has a non-partisan committee of distinguished citizens to monitor judicial campaigns. The Committee is chaired by the Hon. Robert A. Miller, a former Chief Justice of our Supreme Court. Any complaints found to be meritorious are promptly reported to the public, through the press, while the judicial

1 campaign is still on-going. Since this program was implemented, I am pleased to report that
2 during the last two judicial elections violations have been few and far between.

3 From time to time, I am asked why judicial candidates, including me, do not take public
4 positions on the legal issues of the day which rage in the public sector, as well as in other
5 courts. The reason is every person who comes into a court deserves to have his or her case
6 heard by a neutral and fair jurist who will decide the case on the facts presented in court and
7 the existing statutory and constitutional law. How would you feel if you were going into court
8 to protect your freedom or property and you faced a judge who in the last campaign made a
9 point of publicly campaigning on the opposite side of your cause? Depending on which side
10 of the issue you were on, you might say such a system is not all bad if the judge happens to be
11 biased in your favor. However, as with the pendulum on a clock, history shows the majority
12 in power sooner or later becomes the minority and the minority becomes the majority. A biased
13 system would quickly lose credibility with the public. Who among us would tolerate a baseball
14 umpire who called the pitch a ball or a strike before the pitch was thrown?

15 This does not mean judges do not run on their record. In my home county during the 1930s
16 times were tough and there was quite a problem with chickens being stolen from farmers. The
17 local circuit judge had a policy when a chicken thief was caught. The thief's sentence was one
18 year in the penitentiary per chicken stolen. Simply put, stealing six chickens got you six years
19 in the pen. The judge's justification for this rather harsh sentence was when the male farmer
20 came into town to sell cattle, grain, milk or cream, he got the money from the sale. The money
21 received from the sale of the eggs, by custom, went to the farm wife to purchase what she
22 wanted for herself, such as a new dress. Obviously, a chicken stolen meant less egg money.
23 Apparently this sentencing policy found favor with the voters of the Fifth Circuit. The judge
24 was continually re-elected by handsome margins and ultimately died in office after a lengthy
25 judicial career. Although, there was no post-election polling in Roberts County in the 1930s,
26 the "old timers" told me "local wisdom" had it the judge did very well with the farm wife vote.
27 When he passed away, he was the only judge in the history of the county who would be
28 honored by lying in state in the rotunda of the county courthouse.

29 Recidivism was also successfully eliminated. During my tenure as a prosecutor and as a circuit
30 judge in Roberts County, I never was called upon to deal with a case of chicken thievery.

31 CONCLUSION

32 History shows the path of the South Dakota judicial system is a long and winding road.
33 However, it is in reality a path that never ends. Times and challenges change and we must
34 change to meet them.

35 In 1787, this was not a country but a collection of states so loosely connected it appeared the
36 entire experiment in democracy might collapse into anarchy. In a last attempt to salvage the
37 victory of the American Revolution, delegates met in Philadelphia. Disagreements between the
38 states threatened this effort. Finally, through timely compromises, our Constitution was
39 drafted.

1 At the completion of this convention, Benjamin Franklin, then in his 80s, rose and commented
2 on the chair occupied by George Washington, the convention chairperson. The back of the
3 chair contained a carving of a partial sun on the horizon. In reference to the fate of the new
4 "United States," Franklin had studied the carving throughout the convention and pondered
5 whether the partial sun was a rising sun or a setting sun for the new country. With the drafting
6 of the new Constitution, he declared, "But now at length I have the happiness to know that it
7 is a rising and not a setting sun."

8 Franklin was correct. May we all strive to serve the people pursuant to our constitutional duties
9 to ensure the sun of the United States and South Dakota continues to be a rising sun and not a
10 setting sun. This is not a one-time effort. Each day requires we meet this obligation anew.

11 Respectfully submitted
12 David Gilbertson
13 Chief Justice